IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 28TH JUNE 2007 / 7TH ASHADHA 1929

Bail Appl..No. 3741 of 2007()

CRMP.1898/2007 of DISTRICT COURT, PALAKKAD
CRIME NO.401/2000 OF MANARKAD POLICE STATION

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PETITIONER: ACCUSED NO.15

ABDUL LATHEEF,S/O.MOHAMMED,
POLAKUNNEN HOUSE,MANNARKAD, PALAKKAD.

BY ADV. SRI.MOHAN C.MENON

RESPONDENTS: COMPLINANT

STATE OF KERALA, REP.BY BY
PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM.
FOR THE DY.SUPERINTENDENT OF POLICE,
SHORNUR,PALAKAD,(THE INVESTIGATION OFFICER IN
CRIME NO.401/2000 OF MMANNARKKAD POLICE STATION

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 28/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A.NO. 3741 OF 2007

Dated this the 28th day of June, 2007

ORDER

Application for regular bail. The petitioners faces allegations, inter alia, under Sec.302 read with Sec.149 of the IPC. The petitioner is the 15th accused in the case. He had come to this Court earlier and sought anticipatory bail. Another Bench of this Court had dismissed the application for anticipatory bail. The petitioner was later taken into custody on 26/5/07. He continues in custody from that date.

2. The crux of the allegations against the petitioner is that he was responsible and had conspired to commit the murder of one Sulthan brother of deceased Sulaiman. The petitioner and the deceased Sulaiman belong to two different affluent and influential families in the same locality. Sulthan, the brother of the deceased Sulaiman had allegedly

misbehaved towards the sister of the petitioner. The relationship was strained and tempers were running high. It is the case of the prosecution that the petitioner reckoned such indiscretion on the part of Sulthan as an affront to the good name of his family. He, it is alleged, had conspired and had arranged men and material to wreck vengeance on Sulthan - the brother of the deceased and the members of his family. There were some skirmishes earlier which added fuel to the fire. It is the case of the prosecution that the petitioner as the principal conspirator had arranged men and material and had unleashed the attack on 27/7/2000 against the said Sulthan who was expected to be available in the house of the deceased. A number of people went to the house of the deceased armed with dangerous weapons after making necessary prior preparations. They allegedly unleashed the attack. Sulthan, the brother of the deceased, was actually not available in the house. The miscreants allegedly inflicted multiple injuries on the deceased who succumbed to his injuries. Some other members of the family as also a neighbour did also allegedly suffer injuries.

3. Even though the alleged incident took place on 27/7/2000, investigation is not complete yet and final report has not been filed. There were allegations against the officials who

conducted the investigation that they have succumbed to the pressure of influence and money. It is not necessary to advert to that part of the story in detail in this order. Suffice it to say that the petitioner was brought on the array of the accused as per the report dated 22/9/2000. Till 26/5/07, he was not arrested. It would appear that at early stages of the investigation the only allegation against the petitioner was that he was responsible for the conspiracy. The allegation in the F.I.R. shows that only six persons were arrayed as accused though a careful reading of the First Information Statement must suggest that in addition to those who came into the house, others who had come to the scene of occurrence in vehicles were also available outside the house in such vehicle. The petitioner's application for regular bail was dismissed by the learned Sessions Judge who, inter alia, commented on the unsatisfactory quality of investigation that has taken place in this case. The learned Sessions Judge also appears to have taken note of the alleged statement of the informant – the wife of the deceased who stated at a subsequent belated stage of the investigation (i.e., in 2007) that the petitioner was also one of those who was present inside the house and indulged in the culpable overt acts. For these reasons, the learned Sessions Judge dismissed the

application for regular bail.

4. The learned counsel for the petitioner has trained all his guns on the observation that the petitioner was allegedly present along with the other miscreants who entered the house and indulged in culpable overt acts. The learned counsel contends that the de facto complainant/the informant who did not have such a story for a long period of six years has now been put up to speak to such a version. The argument appears to be impressive. But it is not necessary to make any pronouncement on its acceptability now.

5. Be that as it may, the learned Public Prosecutor submits that even eschewing that part of the statement of the de facto complainant, sufficient and satisfactory materials are available to indicate that the petitioner being the brother of the lady against whom the alleged misbehaviour by Sulthan took place and being an influential and affluent member of the said family had conspired to bring about the murder of Sulthan and had planned to attack the house of the deceased.

6. The learned Public Prosecutor was requested to point out to this Court the materials on which reliance is placed in support of such allegation. The Case Diary has been placed for my perusal with the relevant pages marked. At this early stage

of the investigation I shall scrupulously avoid any detailed discussion on the acceptability of such materials and the credibility of the data collected. The learned Public Prosecutor has brought to my notice the statement of the accused as well as the witnesses which, according to me, do satisfactorily point to and indicate the very active involvement of the petitioner in the events that led to the crime. At the present stage and with the present materials, I find no reason to assume that the petitioner is not guilty of the offence of conspiracy/murder alleged against him. I am further satisfied that in a case like the instant one, police must be given sufficient time after arrest of an important accused like the petitioner to complete the investigation and file the final report before such accused is released on bail.

7. In the result, this petition is dismissed. I may, however, hasten to observe that the petitioner shall be at liberty to move this Court for bail again at a later stage of the investigation – not, at any rate, prior to 12/7/07. The Investigator shall make every endeavour to complete the investigation by then.

(R. BASANT, JUDGE)

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